

TIMELINE OF EVENTS

Early 1998 – Meeting with Town Sewer Commissioner, where Sewer Commissioner informs residents of Maillet Drive that they have the choice to opt out of the sewer district if the entire neighborhood signs a petition

1998 – Maillet Drive residents complete petition and Sewer Commission agrees. Thus, sewer construction does not take place on Maillet Drive

2003 – Lin household invests \$500 to fix septic tank pump, reasonably operating under the Town's decision that 2 Maillet Drive is not within the sewer district

2004 – Lin household invests another \$2,500 to replace the septic tank pump under the same reasonable assumption

Sept. 13, 2004 – Lin household receives letter from the Acton Board of Health, acknowledging that:

"The Town and the Maillet Drive property owners have been operating under the mistaken belief that these properties would not receive a sewer betterment assessment"

But in a reinterpretation of the law, the Town wished to reverse its 1998 decision and thus a sewer betterment fee would be assessed. Major issue is that actual connection to sewer district from 2 Maillet Drive is difficult and very expensive because due to previous decision, there is no sewer service connection on Maillet Drive

Summer 2005 – Meeting with Town Manager and Mr. Doug Halley (Health Director) where agreement is reached for Town to provide sewer service connection to property line on Adams Street and it is decided that remaining differential will be resolved at town hearing

REQUEST FOR EQUITABLE REMEDY

Issue for consideration: Lin household has been operating under the reasonable assumption, affirmed by the Town of Acton, that the 2 Maillet Drive property could opt out of the sewer district. If the Town had consistently interpreted the law starting in 1998, the Lin household:

- Would not have signed petition to opt out of sewer district since connecting 2 Maillet Drive to a sewer service connection on Maillet Drive would incur significantly less cost than connecting to Adams. Thus, the neighborhood would not have the unanimous agreement required to be exempted from the sewer district and a sewer service connection would have been constructed on Maillet Drive
- Would have avoided additional \$3,000 expense from continuing to invest in and maintain private septic system

Fair resolution: Would provide remedy to Lin household so that total expense of sewer connection would be the same as it would have been had the Town's "opt out" decision not occurred. Two methods for remedy:

- 1) Town builds sewer service connection on Maillet Drive for the 2 Maillet Drive property to connect to sewer district and rebates additional septic tank maintenance expenses
- 2) Town rebates Lin household the additional expense for building connection out to Adams Street versus having sewer service connection on property line off Maillet Drive and rebates additional septic tank maintenance expenses



ACTON BOARD OF HEALTH

Douglas Halley
Health Director

472 Main Street
Acton, MA 01720

Telephone 978-264-9634
Fax 978-264-9630

September 13, 2004

Yih-Yih Lin
2 Maillet Drive
Acton, MA 01720

Dear Mr. Lin,

As you will see from the enclosed information bulletin, at its regular meeting on Monday, September 13, 2004, the Board of Selectmen, acting as the Town's Sewer Commissioners, voted to adopt a list of final sewer betterment assessments for land in the Town's Middle Fort Pond Brook Sewer Betterment Area. This is the first step toward issuing final sewer betterments and sending bills to property owners in the sewer district. In addition, at the same meeting, the Board approved a Supplemental Order identifying which parcels will and which parcels will not receive final betterments when they are issued. At the request of the Board, I am writing to you to let you know where matters now stand with respect to Maillet Drive.

In 1998 the residents of Maillet Drive petitioned the Sewer Action Committee, an advisory board to the Board of Selectmen, to be deleted from the service area of the Middle Fort Pond Brook Sewer. Based on the information available at that time the Committee agreed with the petition and proceeded forward with the project on the assumption that Maillet Drive would not be considered subject to estimated betterment assessments.

With the sewer construction project now complete the Town has undertaken the process of calculating and preparing final betterment costs. This process has involved extensive legal review of proposed Final Betterment calculations. Based on governing legal provisions found in Massachusetts General Law Chapter 80, Section 4, Chapter 83, Sections 14 and 15, Chapter 340 of the Acts of 2000, and the Town of Acton Sewer Assessment By-law (Chapter D, Section 10 of the Town of Acton Bylaws) and regulations promulgated pursuant thereto, the Town has been advised that every owner of land used for a single-family residence that has ownership along a sewer road must be assessed on the basis of one sewer unit at this time. Two of the properties on Maillet Drive have ownership on Adams Street. Therefore, the Town has no legal choice but to assess those properties a sewer betterment at this time.

The Town sincerely regrets that both the Town and the Maillet Drive property owners have been operating under the mistaken belief that these properties would not receive a sewer betterment assessment. The Sewer Commissioners attempted whole-heartedly to honor the request of the residents of Maillet Drive to be exempted from the sewer service area and any costs associated with the project. The decision to assess the betterment against your property was made on the basis of the governing legal standards. Generally speaking, the legal standard is that assessments are placed on all land abutting a sewered street, unless connection is actually physically impossible.

In addition to your ability to elect to pay the final betterment over time at a very favorable interest rate, the Town would also like to call to your attention that there is an abatement process available for property owners who disagree with the assessment that they received. That process affords property owners the right, individually or through counsel, to present factual and legal arguments as to why the betterment assessment may be inappropriate under the circumstances. When the final betterments are issued, you will receive a notice informing you of the abatement process in more detail.

The Town is also willing to make Town Counsel available to communicate directly with you or your representative to explain in detail the laws relating to the assessment of betterments. Should you have any questions regarding this letter or the assessment, please contact either Doug Halley at 978-264-9634 or Roland Bartl at 978-264-9636.

Respectfully,



Doug Halley
Health Director



ACTON BOARD OF HEALTH

Douglas Halley
Health Director

472 Main Street
Acton, MA 01720

Telephone 978-264-9634
Fax 978-264-9635

June 29, 2005

Yih-Yih Lin
2 Maillet Drive
Acton, MA 01720

Dear Mr. Lin,

As was discussed in our telephone conversation on Monday the Town has a responsibility to provide a sewer service connection to your property line on Adams Street. The Town is prepared to provide that connection at a location of your choice on Adams Street at the time you are prepared to connect to the sewer.

The Town does not have any responsibility to provide a sewer service connection to your frontage on Maillett Drive. Any request for a connection along the Maillet Drive frontage should be directed to the Board of Selectmen, who also act as the Sewer Commissioners.

Should you have any questions regarding the Town's responsibility in providing a sewer service connection, please contact me at 978-264-9634.

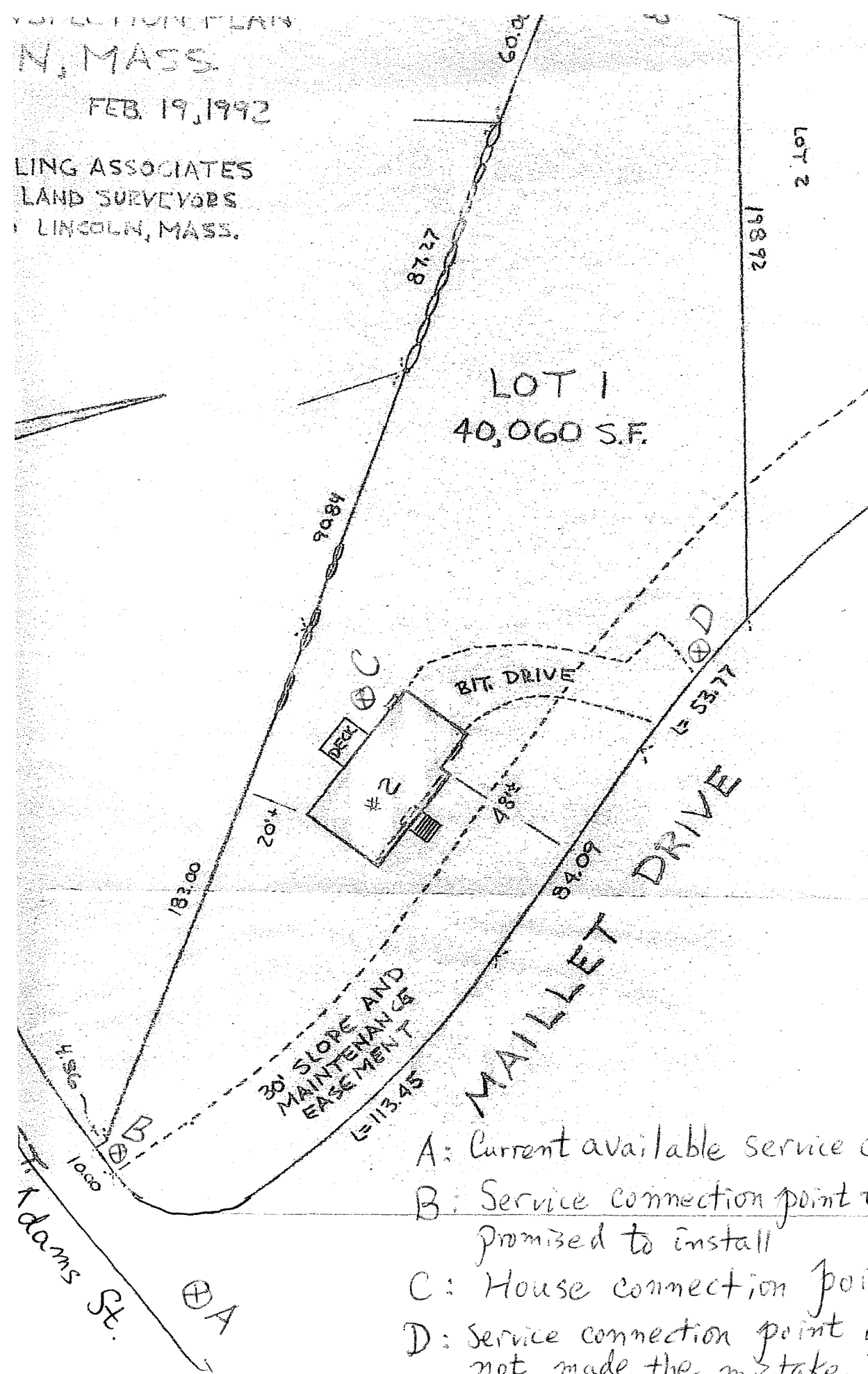
Respectfully,


Doug Halley
Health Director

N, MASS.

FEB. 19, 1992

LING ASSOCIATES
LAND SURVEYORS
LINCOLN, MASS.



- A: Current available service connection point
- B: Service connection point that Town has promised to install
- C: House connection point
- D: Service connection point if Town did not made the mistake 7 years ago.